

A
L E T T E R

TO THE

AUTHOR of the BURLETTA

CALLED

HERO AND LEANDER,

In REFUTATION of what he has advanced in his

DEDICATION TO

PHILIPS GLOVER, Esq.

On the STATUTES for the

REGULATION of THEATRES,

The Conduct of Mr. PALMER, of Mr. Justice
STAPLES, and the other JUSTICES;

AND ALSO OF HIS

OBSERVATIONS

ON THE

CONSEQUENCES that must arise to the Citizens of
London and to Government from the Parliamentary
Establishment of a THEATRE in WELLCLOSE
SQUARE.

L O N D O N:

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TO THE
AUTHOR OF THE

CALLED
HERO AND LEANDER

is a reproduction of what is being advanced in the
DEDICATION TO
PHILIPS OF OVERTURE

THE
REVELATION OF THE

THE
AND

OBSERVATIONS

CONSIDERED THE
IN THE
OF A

LONDON
PUBLISHED BY
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TO THE
A U T H O R
O F
H E R O A N D L E A N D E R.

S I R,

THOUGH you stand forth in the double character of a Dramatist, as well as an Advocate for the *Theatre in Well-street*, I will suppose your motives have originated in an impartial love of justice, an unbiassed friendship to the Manager, and an independent regard for the public good. I will not presume that you have been influenced by any profit you may have received, or by the expectation of any future reward from the Treasury of that Theatre.

I concur with you in the propriety of expunging from the discussion of the
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question all personal reflections; but why have you deviated from your own rule? Towards the *fifty-seventh* page of your Dedication, to adopt an expression of your own, you have attempted to bespatter Mr. Colman; you have discharged at him a whole volley of those *paper-bullets*, the use of which, in another part of your argument, you severely reprehend. This conduct I would impute to the old adage, "great *wits* have short memories," had you not cleared yourself from the imputation in your third page, by censuring those who "under the disguise of *wit* do mischief;" for which reason, I suppose, you avoided the use of that dangerous covering throughout the whole of your work.

But though you have spurned at *wit*, you have displayed a share of *ingenuity*; and your correspondent, Mr. Glover, to whom you have dedicated your Drama, and whom I believe with you, possesses "an understanding that would treat ribaldry with contempt," must admire your sagacity in
discovering

discovering that the patentees of the Theatres-Royal “consider it their *interest* to oppose the establishment of a Theatre in Wellclose-square, and that Mr. Palmer finds it his *interest* to defend his *property* in that *jurisdiction*.” To discover that Wellclose-square is a *jurisdiction*, may be novel; but to discover that a man has an *interest* in *defending* his *property*, is not very new; but probably the *subscribers* to the Royalty Theatre may be of opinion that the *property* is *theirs*, not Mr. Palmer’s, and that he has only a contingent interest in its casual revenues. The interest which the Managers of the Theatres-Royal have to defend, arises from a property invested in them by law; an interest, upon which the properties of the several Mortgagees and Renters depend; it was created by law, and the legislature will defend it; for the legislature, though fully competent to alter property, or perhaps to dispose of it, proceeds not upon the arbitrary dictates of power, but upon the mild principles of authority; therefore

never take away or lessen any man's property or security, without making a recompence. Under the sanction of the 10th of Geo. 2. the Managers of the Theatres-Royal have borrowed and laid out thousands; but this is not Mr. Palmer's case; he never laid out a penny; but he, under the pretence of possessing a right, paramount to the prohibitory statute, seduced the weak and the unwary to advance their money. He in fact raised money without a title, and knowing the security he held forth to be not only voidable, but void. This was perhaps his reason for refusing the thousand pounds so generously offered him by your patron, Mr. Glover; for I will not venture to advance that Mr. Glover was in the *secret*, but will suppose, from his character in life, he was one of the subscribing dupes imposed upon. This duplicity in Mr. Palmer, I call braving the laws of his country; and since he has been guilty of such double-dealing to the Publick, to his Subscribers, and to the Performers he engaged to *act plays*, I concur with you,

you, that a man “ manifesting a disposition so derogatory to the character of a good citizen, should experience the detestation of every friend to civil liberty;” and what I have advanced will, I believe, convince the citizens of London that your conclusion is fallacious, when you assert that “ so far from even encroaching on the laws, he (Mr. P.) has constantly made them the rule of his conduct.”

The excuse which you draw from Mr. Palmer’s own mouth, is new and curious. You preface it by telling us from yourself, that “ throughout the whole of this business, Mr. Palmer’s conduct really *interests the whole metropolis* in his behalf; it speaks the language of ingenuoufness beyond all controversy or cavil.” Let us examine it, thou sapient scribe.—Mr. Palmer says,

“ I will first build a Theatre, that every individual may judge, from ocular demonstration, whether as an *edifice* it merits the countenance and support, or the contempt of the city. I will not apply for an Act of Parliament through
any

any other medium than the *City of London*, and the citizens SHALL FIRST see what they recommend. I will venture every thing that can be dear to me in this life on the good sense and liberality of my fellow-citizens, and I will begin my endeavours at an expence of FOURTEEN THOUSAND POUNDS."

A more palpable imposition than this paragraph contains, has not been obtruded upon the citizens of London since the days of the Bottle Conjuror! Does Mr. Palmer presume to say he built the Theatre? Will Mr. Palmer dare deny, that the subscriptions by which it was built were solicited, received, and applied through the medium of imposition? You know, sir, and all London knows, that the subscribers were *taken in* under *false pretences*; that the Theatre was built under *false pretences*, and the performers engaged under *false pretences*: for it was not 'till the day previous to the opening of the Theatre that Mr. Palmer told the *truth*. On that day, indeed, he was *ingenuous*;
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for, on that day, he confessed, he had no authority from the Constable of the Tower, and that his licence went no further than that granted to Sadler's Wells. This is the conduct which Mr. Palmer presumes will insure him liberal support from the City: This is Mr. Palmer's mode of expending *fourteen thousand pounds*. Come, sir, be candid; you are a lawyer, and must, or ought to know, that each of the subscribers could have maintained an action against Mr. Palmer, for money obtained from them upon a false title, which he warranted to be good.

I come now, sir, to your *law*, and will first examine your

“OBSERVATIONS *on the several Acts of Parliament, now in being, for the government of our Stage. 12 of Anne. 10, 17. & 25 of Geo. 2.*”

On these Acts several questions arise.

First, Do any of the entertainments, exhibited at the Royalty Theatre, come within the prohibition of statute the 10th of Geo. 2.?

Secondly,

Secondly, Are the entertainments, exhibited at the Royalty Theatre, within the licence of statute 25 Geo. 2.?

As these two questions involve similar arguments and similar conclusions, I shall examine them together.

Statute 10 Geo. 2d enacts, that “every person who shall for hire, gain, or reward, act, represent, or perform, or cause to be acted, represented, or performed, any interlude, tragedy, comedy, *opera*, play or farce, or *other entertainment of the stage*, or any part or parts therein, &c. shall be deemed to be a *rogue and vagabond*.”

The second section of this Act subjects the person offending to the penalty of 50*l*. on payment of which he is not to suffer as a *rogue or vagabond*, &c.

Statute the 25 of Geo. 2. enacts, that “any house, room, garden, or other place, kept for *public dancing, musick*, or other *public entertainment* of the like kind, in the cities of London and Westminster, or within twenty miles thereof, *without a licence* had for that purpose, &c. shall be deemed a disorderly house, &c.

Mr.

Mr. Palmer has obtained the licence prescribed; let us then see if he has done *more* than the stat. 25 Geo. 2. allows; and if what he has done comes within the prohibition of statute 10 Geo. 2.

You advance that a BURLETTA does not come within the prohibition, and you give as a reason, that *Burlettas* are not such exhibitions as lead to evil purposes. But look into the *Burletta* of *Hero* and *Leander*, and you will see some expressions contained therein offensive both to morality and decency; at least, you will see sufficient to convince you, that a *Burletta* is a *dramatic medium*, through which, immorality and disaffection, or any other offence which words and action could incite, could be conveyed to the publick, with as much ease, and nearly with as much effect, as through the means of any other entertainment of the stage.

Your answer to this will be, suppose a *Burletta* has all those qualities, yet it is a musical entertainment—and being such, is within the licence of statute the 25th of Geo. 2.

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To this I reply, a *Burletta* certainly is a *musical entertainment*; but a burletta is neither a dance, song, a duet, a trio, nor a concert; it is something more than even an oratorio; it is a *drama* set to musick, and as such, it cannot be licensed by Justices, but is within the prohibitions of statute the 10th of Geo. 2. I assert, that the *Burletta* of *Hero* and *Leander* cannot be licensed by the Justices, nor can it be played in any Theatre Royal, without a licence previously obtained from the Lord Chamberlain. I say, a *Burletta* is a drama; it has fable, characters, incidents, dialogue, scenery, and every concomitant and essential part and quality that constitutes a drama. It is a species of *Opera*, and *Operas* are specifically prohibited by *statute the 10th of Geo. 2.*

Will you venture to maintain, that the persons represented in the *Burletta* of *Hero* and *Leander*, or any other *Burletta* represented at the *Royalty Theatre*, are not *dramatic characters*? I think you will not; and if you admit they are, out of your own mouth, you stand condemned; for in page 9 of your *Dedication*, you state

state as your own own opinion, that “ if
 “ an actor (no matter how capable in his
 “ profession, or respectable in his private
 “ character) represents a *dramatic character*
 “ in any place, in the realm of England,
 “ not tolerated by statute, he is declared a
 “ *rogue and vagabond.*” Could Mr. Bare-
 “ croft have been more decisive !

Look into the dictionaries, and you
 will find *Opera* thus defined : “ A poetical
 tale, set to musick.”—Now what else is
 HERO and LEANDER ?

But to elucidate further, as *Opera* is a
 species of the *drama*, so *Burletta* is a spe-
 cies of *Opera*; and if you take a second
 peep into the dictionaries, you will find,
 that *Burletta* is derived from the Italian
 verb *burlare*, to jest, and is an *Opera*
 supported by comic dialogue.

These observations must convince you,
 that setting a *poetic tale* to musick so far
 from taking it out of the prohibitions of
 the statute, brings it under the spe-
 cific description of *Opera*; and to as-
 sert the contrary, would be as ab-
 surd as to argue, that treasonable words

would not incur the penalties enacted by the statute of Treasons; or that libels could not be *sung* as well as *said*; and “that wicked wit, Mr. T. Vaughan,” who advised you against “sousing *Leander* in the waves, as such a *denouement* would be tragedy direct, and against the law as laid down by Mr. *Bearcroft* ;” could also have informed you, that the *catastrophe* of marriage, though brought about by the *Goddeſs of Wiſdom* herself, renders your *Burletta* a compleat *entertainment of the ſtage*, according to the *laws* of the drama; and such an one, as is prohibited by the *law* of the *land* from being acted in any Theatre Royal, without the approbation of the Lord Chamberlain, or in the Royalty Theatre, even with that approbation.

Compare the prohibitory clauses of the two Acts, and another argument arises.

Statute 10 Geo. 2. prohibits “the representation of any Interlude, Tragedy, Comedy, Opera, Play, Farce, or *other entertainments of the ſtage*.”

Statute 25 Geo. 2. prohibits “The keeping open any house, room, garden,
or

or other place for public dancing, musick, or other public *entertainments of the same kind.*"

Now the question to be decided upon, comparing the prohibitory clauses in these two statutes is,

Whether a *Burletta*, in which all the essentials that form a drama are combined, be within the prohibition of the relative words: "*other entertainments of the stage,*" in stat. the 10th of Geo. 2. Or within the prohibition of the relative words: "*other public entertainments of the same kind,*" in stat. 25 Geo. 2.?

That is, to put the question in a different form; whether a *Burletta*, which cannot be performed as a public entertainment, but on a *stage*, with the paraphernalia of an *opera*, be "an entertainment of the *stage*," or an "*entertainment of the same kind*, as a public *dance*, or a *concert*?

I do not call upon the *Law*, I do not call upon *you*, I call upon *Common Sense* for an answer.

If then I have proved, that a *Burletta* is an *entertainment of the stage*, it follows,
of

of course, that it is not a public entertainment of that class or description, which justices of the peace are authorised to license by *statute 25 Geo. 2*; and that Mr. *Palmer* by representing them, incurs the penalties created by the 2d section of *stat. 10th of Geo. 2.* which penalties if not paid, he becomes deemed, and must suffer as, a *rogue and vagabond*, by virtue of *stat. 17 of Geo. 2.* and also is liable to be sued upon the 3d section of the same statute, which prohibits, under forfeiture of 50*l.* the acting of any piece, not licensed by the Lord Chamberlain.

I come now, Sir, to examine your fourteenth assertion, viz. “ *The several Acts of Parliament that disgrace the professional character of an actor reprobated.*”

To *reprobate* an Act of Parliament is a bold undertaking, but not an extraordinary one in an advocate, who attempts to defend a breach of the law. It is an insult, however, which should not pass with impunity, for a grosser contumely was never offered to the law, or to the Legislature, to public decorum, or to good manners,

ners, than your application of the term *reprobate*. What, Sir, will you dare to *reprobate* Acts of Parliament? Statutes which have been sanctified by the resolutions of the *Commons*, the concurrence of the *Lords*, and the royal assent of the *King*? Is this the language, Sir, by which “the whole Metropolis is to be interested in Mr. *Palmer's* behalf?” Will the citizens of London carry up a Petition to the representatives of the people, breathing *insolence* and *reprobation*? No, Sir, when the citizens of London apply for favours to the Legislature, either by themselves or their representatives, they come forward with that decency and good manners, which are consistent with their own honor, the reverence due to their own characters, and the dignity of the sovereign authority to which they apply. Men who have the temerity to reprobate Acts of Parliament, will experience little favour from the legislature!

But to the argument: you are certainly right in stating, that as the *law* now stands, “if an *Astor*, no matter how capable in
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“ his profession, or respectable in his private character, represents a dramatic character in any place throughout the realm of England, not tolerated by the statute, he is declared a *rogue* and a *vagabond*,” and must suffer as such. This you call “ *levelling* the profession of an Actor, and rendering it contemptible throughout the kingdom ;” but this assertion is not supported by facts; for the profession of acting has increased considerably in respectability, since the passing of the acts you *reprobate*; and by the judgment of the Court of King’s Bench, in the case of *Macklin* on an information against certain persons for hissing him from the stage, an Actor on a licensed Theatre, is as strongly secured in the property of his profession, as any other man.

The offences created by the Acts you attempt to *reprobate*, come under the description of that class, which the law terms *male prohibita*, that is a forbidding of Acts, which in themselves may not be morally bad, though the commission of them is prohibited for purposes of general

general convenience. Such are all laws against smuggling. For example, to export wool was no offence, till the enacting of *stat. 11 of Edw. 3. ca. 1. and by stat. 27. Edw. 3. stat. 2. c. 3. c. 7. c. 12.* it is made *felony*; so that if *players* be levelled to the situation of *rogues* and *vagabonds*, for offending against the acts for regulating the stage, the merchants are in a still more degrading predicament; for if they offend against the statutes for regulating the wool trade, they are levelled to the condition of *felons*: and yet I believe you never heard any good citizen attempt to reprobate these statutes.

“ *Sir Robert Walpole’s motives for procuring the licensing Act,*” is nothing to do with the present question. Indeed your arguments against them amount to nothing. You alternately *censure* one clause in the Regulating Act and praise another: like the satyr in the fable, blowing hot and cold with the same breath. You assert in one page, that the Minister’s *intention* was “to crush the Drama of England;”

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and

and immediately after, you positively declare, "that the stage in England was so abominably perverted, that a parliamentary interposition became *indispensible*:" and that very Act, which you have laboured in one part of your Dedication to *reprobate*, you tell us, in another place, that it "purges the stage of all those obscenities which so long disgraced it, and gives *strength* and *purity* to the Drama, that must carry it down to posterity as a blessing." Good sir, when you resolved not to appear in "the *disguise* of wit," why did you also throw away *consistency*? What, did the Minister *intend* to *crush* the Drama, by giving it *strength* and *purity*? The point for consideration I repeat is, not the motives of Sir Robert Walpole, but whether the laws for regulating the stage, enacted during his administration, operated to salutary, or evil ends? Laws once passed, are not to be condemned from the motives in which they originated, but from their effects.

If the laws for regulating the stage should be repealed, every disappointed or
ambi-

ambitious actor, possessing money or abilities, would have his Theatre. *St. Mary-le-bon* would make her curtesy to the legislature, and put in her claim; and *St. Giles* would make his bow and exhibit his pretensions. Every petit town in Great Britain would attempt to maintain her own company, 'till in England, as has been the case in Ireland, the performers would be divided into factions, theatres would spring up in every quarter, and ribaldry, tumblers, fire-eaters, dancing dogs, learned pigs, and musical ducks would disgrace the stage, the drama would degenerate, and actors, *without* offending the law, would become *rogues* and *vagabonds* from necessity.

* I shall now, sir, examine “*the various good consequences that must arise to the citizens of London and to Government, from the parliamentary establishment of Mr. PALMER’S Theatre.*”

* “The policy of Sir Robert Walpole’s Acts is not so new as generally imagined; for it appears by Stowe’s Survey of London, that in 1574, Sir *James Harves* being Mayor, an Act of Common Council took place; wherein it was ordained, that no play should be openly acted within the liberty of the City till first *perused*; and allowed by the Lord Mayor and Court of Aldermen, under penalty of five pounds and fourteen days imprisonment.

In examining this section of your argument, I will fully admit every point you have advanced in favour of Theatres; nay, I will do more; I will strengthen your arguments with *law* and *gospel*, both of which you have overlooked.

The COMMON LAW tells you, “ that playhouses having been originally instituted with a laudable design of recommending *virtue* to the imitation of the people, and exposing vice and folly, are not nuisances in their own nature, but may become such by accident; as where they draw together such numbers of coaches or people, &c. as prove generally inconvenient to the places adjacent; or when they pervert their original institution, by recommending vicious and loose characters, under beautiful colours, to the imitation of the people, and make a jest of things commendable, serious and useful.” 1 *Roll's Reports*, 109. 5 *Modern Rep.* 142. *Skinner*, 625.

In the GOSPEL, St. Paul often quotes passages, for which he refers to the Dramatic Poets, citing their expressions, in

confirmation of his own sentiments ; and Archbishop Tillotson gives this testimony in favour of plays, “ that they might be so framed and governed by such rules, as not only to be innocently diverting, but instructive and useful to put some follies and vices out of countenance, which cannot perhaps be so decently reprov'd, nor so effectually expos'd and corrected any other way.”

I will now state my own opinion upon the utility of Stage Entertainments ; an opinion not formed presumptuously upon superficial speculation, but on the digested judgments of Philosophers and Legislators ; and will then proceed to shew, that a Parliamentary establishment of the Theatre in Wellclose-square, would not be productive of *good*, but of various *evil* consequences to the Citizens of London and to Government.

And first, as to my opinion on the utility of Stage representations, I have observed in the course of my reading, that wise governments have not only endeavoured to protect their subjects by inculcating
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the arts of war, for the purpose of repelling the attacks of foreign invaders, but have also exerted their abilities in promoting an encreased wealth and independency of their subjects, by the extension of manufactures and commerce*. But the glory acquired by conquest, and the riches which flow from manufactures and commerce, would be found inadequate to the establishment of national happiness, the great end of legislation, if arts and sciences were not introduced to soften and sweeten the dispositions of the people. Wise legislators, therefore, have encouraged and instituted public entertainments, for the purpose of polishing and humanizing the mind of man: Copying after *Nature*, who gives ornament and elegance to the essential qualities of her noblest productions, as necessary to their perfection.

In this policy originated public games and spectacles, which at once delight the imagination, and improve the understanding, rouze the soul to emulation, and in-

* See Hedelin's Art of the Stage. Scaliger, Dryden's Essay, &c.

fuse into the heart those social virtues, which form friendship, conjugal love, and every kind of domestic bliss.

Public diversions promote other good effects; they are considered by foreigners, as proofs of independence. In times of peace, they evince wealth, improve genius, and give encouragement and employment to artificers. But in time of war they do more. They alarm the enemy by infusing into them a magnificent idea of the national resources, which support the government; and the examples of magnanimity, exhibited on the stage, stimulate the spectators even to enthusiasm, in exercising the virtues of patriotism at home, and in the field.

The entertainments of the stage have another great end. Very few of the lower ranks of mankind are acquainted even with the general maxims of morality. The elevated truths of philosophy are too strong for their unimproved minds. Tell them, that happiness does not consist in the possession of worldly things, but in the despising of them; that virtue ought
to

to seek its recompence in itself, or that no worldly interest should seduce a man to the commission of a dishonourable action, and they will not only suspect the doctrine, but insult the teacher with ridicule. They must, therefore, be instructed through a medium, which can convey the truths of philosophy to their senses, and for the time master even their passions. This can only be accomplished by the power of good acting, and therefore the stage *has properly been called, The SCHOOL OF THE PEOPLE.*

This leads me to a retrospect of what I have already said, respecting the clause in the 10th of Geo. 2. which invests a power of rejecting pieces in the Lord Chamberlain. Such a power I think ought to exist, and be exercised on every drama, deficient in this indispensable rule: “that, *in dramatic poems, VIRTUE ought always to be rewarded, or at least COMMENDED, and VICE punished or placed in a view of ABHORRENCE.*” And as Sir Robert Walpole was the promoter of
this

this clause, I must dissent from you in opinion, that he should even have *intended* the murder of *genius*. But you have gone further; you have laid down as a *fact*, that he has *perpetrated* that *murder*, which you term a “*melancholy idea*,” and this charge you bring forward in the Dedication to the *Comic Opera* of *Hero and Leander*; an opera wherein it is true, there is not a trait of genius, though it was represented in defiance of Sir Robert’s Act; at which, I cannot have a doubt, every reader must *laugh*; for who can suppress the emotions of their risible muscles, on reading the following *decent* and *witty* couplet:

Zounds, I’ll souse *him* in a tub of pickle,
And as for Miss, her *toby* I will tickle*.

I come now, Sir, to prove, what you have boldly asserted “the united abilities of the world” would be unequal to, “*that a THEATRE in WELLCLOSE-SQUARE would be injurious to the CITY OF LONDON.*”

* This Opera, it is clear, could never have passed the inspection of a Lord Chamberlain, nor would the Lord Mayor and Aldermen have licensed it, when they were inspectors of the drama in London. See note p. 18.

In supporting the *negative* side of this question, you have evinced a subtlety, which I cannot accuse you of displaying in any other part of your *Dedication*; but your cunning is without skill. You attempt to establish a distinction between the Citizens of London, and the inhabitants of Westminster; and because they are locally ruled by different municipal jurisdictions, and divided by ideal barriers, you represent them as different people.

But, alas, Sir, Old *city* manners are now so blended with *tonish* fashions, that the merchants and traders of the Royal Exchange, and its neighbourhood, and the bucks and beaux of the courts and its vicinity, walk, talk, eat, drink and amuse themselves exactly alike: And should even the *London Cuckolds*, that execrable comedy, which you have justly deprecated with becoming asperity, be ever again revived for the stage, the *withers* of the citizens would be *unwrung* by the representation; as neither the satire, nor humour contained in it, applies to them at present. The annals of gallantry, at this day,

day, can produce in their illustrations, as many ensigns of nobility and gentry *crested* with *antlers*, by the good men of London, as the Atlantis of the last century could set forth as gifts of courtiers to the citizens.

London and Westminster have local situations, but so has every parish; and though they are different cities, yet at this day, London, Westminster, the Borough of Southwark, the Tower Hamlets, with all the new streets in the counties of Middlesex, Surrey, &c. form one *great metropolis*, governed by one superintending legislature.

For the entertainment of the people who inhabit this metropolis, there are THREE THEATRES ROYAL; two of these Theatres are open for nine months in the year, the other for three months; besides these Theatres, there are the *Italian Opera House*, the *Circus*, *Sadlers Well's*, the *Royal Grove*, *Ranelagh*, *Vauxhall*, with tea gardens, &c. &c.

On a moderate computation, the winter Theatres, as they are improperly called; are capable of containing seven thou-

and persons every night during their seasons ; and, I think, we may justly set down, that the other theatre, and places of public amusements, may contain forty thousand a night.

It becomes then a question of very serious importance to the citizens of London, particularly the merchants, traders, and artificers, whether the Theatres, already established by the authority of the law, are sufficient for the entertainment of the inhabitants of this metropolis ; or whether they should apply to Parliament for an Act to license *another house* for stage entertainments, and that house to be situated among themselves. I believe the citizens, on considering the question, will conclude, that so far from applying for an encrease of public entertainments, as so many thousand persons are already entertained every evening, it will be their duty not only to prevent such an application from among themselves, or from any other quarter, but, if possible, to procure the suppression of several public entertainments already licensed and unlicensed :

and that it is their duty so to act, I shall presently attempt to prove, by shewing, from the arguments of as wise, as impartial, as humane, and as acute a magistrate as ever sat upon a bench, that too frequent and expensive diversions among the lower class of people, is one great cause of *every species of immorality*, and more particularly of the INCREASE of ROBBERIES.

The legislature has wisely directed, that the citizens of London shall plead and be impleaded within their own walls, and therefore they have their own courts : and the reason is, that they may not be called off from their avocations. Now the very same reason that caused the establishing of courts of justice *within* the city, should keep Theatres *out* of it. Theatres, in their present situation, are schools for instruction to the people of the East, but license a Theatre in Wellclose-square, and an evil which has already appeared there will soon increase : instead of being a school for instruction, it will become a place of vicious amusement ; the box lobby will overflow
with

with bucks, bloods, and ladies of easy virtue.

Apprentices of both sexes will no longer appropriate the evening to labour or the calls of business: no, they will pant for the hour of half-price, and fly from their seats of industry, to their seats in the play-house; this is an observation of experience; for when Theatres were permitted within the city, the ill effect was so sensibly felt by the Common-council of London, that by the advice of that body, they were totally suppressed by the Corporation; and when they were afterwards tolerated, the Queen's players only were permitted to act, as appears by Stowe's Chronicle.

The situation of the winter Theatres, at present, is nearly central. They are as contiguous to the eastern as to the western extremities of the metropolis; and if you cast your eye upon the chart, I believe you will find they are, at least, as convenient to the center of the city as Wellclose-square. Their distance then, so far from being a grievance, is a blessing
to

to the lower classes at the eastern parts of the town. They are not sufficiently near, it is true, to attract nightly visitors from the borders of the metropolis, but their distance is not such as to prevent the inhabitants of those parts, from indulging in the diversions of the Stage, as often as sound policy should admit, and which I shall shew presently, should, among artificers and others of the lower classes, be confined to the times of those festivals which our forefathers wisely appointed, as proper seasons for relaxation from labour.

You ask, “ Why should the cities of York, Edinburgh, Bath, and the town of Liverpool, &c. &c. succeed in their several applications to Parliament, for an establishment of their Theatres, and the city of London fail ? ” Because there are *three* Theatres already in the *metropolis* of England. Are you answered ? Take out your compasses, and measure the distances from the Theatres of the *metropolis* to the cities of Edinburgh, &c. and then you will

will see *reasons* above one, two, and three hundred miles long. Are you answered yet?

That many "idle and disorderly people occupied the ground where the new Theatre stands," I am no more surprized at than that their nightly depredations on the inhabitants should have long been a subject of complaint." Where magistrates are supine, thieves will flourish; and that the magistrates of the Tower Hamlets have neglected their duty, you have incontestibly proved, when you tell us in page 17, that *bailing* persons convicted as *rogues* and *vagabonds*, has been their constant practice. Had they not thus encouraged desperadoes, had they exercised the duties of their office with integrity and spirit, the constables would have banished those disorderly persons from Wellclose-square, and then there would have been no occasion for Mr. Palmer to have built an *unlicensed* Theatre for that purpose, at the expence of fourteen thousand pounds, under the *pretence* of his possessing a *legal* authority.

authority. But this Theatre has already, and if licensed will continue to produce wonders. Ground-rents will encrease; new buildings will spring up. The good citizens of London hear this, and rejoice! a school of morality is erected, which they are solicited to support, and and they will shortly see a scene of magic performed by the sword of Harlequin, equal to the building of Thebes. They will see on the site of old houses, elegant edifices—but of what description? bagnios, gaming houses, night houses, and brothels; the place of poor and wretched mechanicks, their eyes will be delighted with reps and demireps, black-legs and pigeons, pimps, bawds, panders, and flash-men, who shall emulate, and perhaps, in time, outvie the heroes and heroines of the hundreds of Old Drury, or the purlieus of Covent Garden!

As to the personal interests of the Managers of the Theatres Royal or the Wellclose-square Theatre, they are out of this question; they will undoubtedly do

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what all wise men do, the best they can, to secure the property they possess, and to prevent a decrease of its profits; but be assured *their* applications, or Mr. *Palmer's* solicitations, will have very little weight with the legislature; indeed, I think their private claims will scarcely ever come into debate, unless the *Minister*, Mr. *Fox*, or Mr. *Sheridan*, to whom you recommend the cause of the Wellclose-square Theatre, fired with ambition to *cut a figure*, should introduce the personal interests of the managers into argument, for the purpose of adopting that persuasive and logical oration, which you have printed in the 40th page of your Dedication for the use of every "candid senator" who may please to admire it, and which will require only this trifling alteration to make it consistent with parliamentary order, that if it should be spoken to the House, instead of beginning, as you have directed, with the words, "Mr. *Colman*," the "candid senator," must substitute, "Mr. *Speaker*." But if Mr. *Colman* should

procure a seat, and have sufficient influence to be chosen Chairman of the Theatrical Committee, then, indeed, the speech may stand as it is.

But, Sir, I now come to a very serious part of my argument. I now come to shew from *authorities*, that though entertainments of the Stage, when properly regulated, are of *use* to the people, yet the encrease of them would produce a contrary effect.

The witty, the humorous, the benevolent Henry Fielding, with whose name only you seem acquainted, has observed, that “ in free countries, it is a branch of liberty claimed by the people to be as wicked and as profligate as their superiors. Thus, while the nobleman will emulate the grandeur of a Prince, and the gentleman will aspire to the proper state of the nobleman, the tradesman steps from behind his counter into the vacant seat of the gentleman. Nor doth the confusion end here; it reaches the very dregs of the people, who

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aspiring

aspiring still to a degree beyond that which belongs to them, and not being able, by the fruits of honest labour, to support the state which they affect, they disdain the wages to which their industry would entitle them, and abandoning themselves to idleness, the more simple and poor spirited betake themselves to a state of starving and beggary, while those of more art and courage become thieves, sharpers, and robbers."

"When this vice descends downward to the tradesman, the mechanick and the labourer, it is certain to engender many political mischiefs, and among the rest it is most evidently the parent of theft and robbery, to which not only the motive of want but of shame conduces; for there is no greater degree of shame than a tradesman generally feels at the first inability to make his regular payments; nor is there any difficulty which he would not undergo to avoid it. Here then the highway promises, and hath, I doubt not, often given relief."

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“ The gentlest method which I know, and, at the same time, perhaps, one of the most effectual, of stopping the progress of vice, is, by removing the temptation. Now the two great motives to luxury in the mind of man, are vanity and voluptuousness. The former of these operates but little in this regard with the lower order of the people. I do not mean that they have less of this passion than their betters; but the apparent impossibility of gratifying it this way deters them, and diverts, at least, this passion into another channel; for we find it puts them rather on vying with each other in the reputation of wealth, than in the outward appearance of shew and grandeur. Voluptuousness, or the love of pleasure, is that alone which leads them into luxury.

“ Here then the temptation is, with all possible care, to be withdrawn from them.”

But, as Fielding says, “ what greater temptation can there be to *voluptuousness*,
than

than a place where every sense and appetite, of which it is compounded, are fed and delighted; where the eyes are feasted with show, and the ears with musick, and where gluttony and drunkenness are allured by every kind of dainty; nay, where the finest women are exposed to view, and where the meanest person who can dress himself clean, may, in some degree, mix with his betters, and thus, perhaps, satisfy his vanity, as well as his love of pleasure?"

I hear you exclaim, "are these quotations consistent with your opinion of the Theatre when you called it the "SCHOOL OF THE PEOPLE?"

I answer, My idea then was confined to the stage alone. I now throw my eyes into the green boxes, the box lobby, and the back seats of the first gallery. My imagination then creates those new buildings, which you have foretold will rise up and embellish Wellclose-square, and which I have described. I trace into them an hundred *Milwoods* and a hundred *Barnwells*,

Barnwells, seduced to commit robberies, forgeries and murders ! I see Generals, Colonels, and Majors without commisions ; foreign Counts, who have been born barbers, and gentlemen who have been bred pickpockets, sitting down to hazard, pass dice and cards ; I see these worthy characters stripping merchants sons, and merchants clerks, of their parents and masters property. I see these worthy characters insinuating themselves into reputable houses, and under false pretences, borrowing money, and exerting every art of seduction to debauch the wives and daughters of those who entertain them, or to entrap rich widows and independent maidens into marriages, which must insure to them wretchedness and broken hearts. In short, Sir, I see illustrations of every thing which *Fielding*, that unerring judge of the human heart, has stated as the inevitable consequences of *increasing* places of public entertainment ; and, of course, I am convinced, that the Theatres already
 licensed

licensed by Parliament, are sufficient to entertain the people of this metropolis, and that *an application to the legislature, for establishing a THEATRE in WELL-CLOSE SQUARE, ought to be OPPOSED not only by the CORPORATION and COMMONALTY of LONDON, but by every individual who wishes to support the COMMERCE, MANUFACTURES and MERCANTILE CREDIT of the NATION: as such an ESTABLISHMENT must promote every species of IMMORALITY, encrease BANKRUPTCIES, and tend to the total RUIN of many INDUSTRIOUS FAMILIES.*

I come now, Sir, to the last division of your Dedication, viz. “*The late conduct of Mr. JUSTICE STAPLES, in committing several of the performers belonging to the Royalty Theatre, censured as illegal. The MAGISTRATES that BAILED them vindicated.*”

* One great inconvenience has been already felt and must encrease by licensing this Theatre, which is the payment of tradesmens debts in benefit tickets.

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For the clear understanding of the argument to two things, should be known:

First, the *direction* given to the Justice, by his Majesty's commission, which appoints him to his office. *Secondly*, the *oath* he takes previous to commencing the exercise of his duties. Now the commission charges Justices of the Peace "to cause to be *kept all statutes*, and to punish those who shall offend against them;" and in their oath they swear, "to do equal right to the poor and to the rich, after the laws and customs of the realm and *statutes thereof made*." From which it follows, that the only question that can arise upon the conduct of Mr. Justice Staples, who *committed* the players as *rogues and vagabonds*, by the authority of Statutes the 10th and 17th of Geo. II. and those Justices who afterwards bailed them, is simply this;

Have they done right according to the directions of those Statutes?

Let us see what these Statutes direct. I have already stated the prohibitory clauses in the 10th of Geo. II. which

act refers to the punishment of convicted persons to the 12th of Anne. The 12th of Anne is repealed, but by the 17th of Geo. II. it is enacted, that "all common players of interludes, and all persons who shall for hire, gain, or reward, act, represent, or perform, or cause to be acted, represented, or performed, any interlude, tragedy, comedy, opera, play, farce, or other entertainment of the Stage, or any part or parts therein not authorized by law," shall be deemed *rogues* and *vagabonds*, except on conviction each offender pay the penalty of fifty pounds.

The 6th section, in Stat. 10. Geo. II. points out the mode of recovering the penalties as follows: the penalties may be recovered in the courts at Westminster, or before two Justices, by the oath of one witness or confession, to be levied by distress, and for want of sufficient distress the offender to be committed to the house of correction, for any time not exceeding six months, there to be kept to hard labour, or to the common gaol, for any time not exceeding six months, there to remain *without bail or mainprize*; and
if

if any person shall think himself or herself aggrieved, such person or persons to *appeal* thencefrom, to the next general quarter sessions. One moiety of the penalty to the informer, the other moiety to the poor of the parish.

By this Statute a *special authority* is given to Justices of the Peace, and wherever such an authority is given, it must be exactly pursued. *Salkeld's Rep.* 475.

If then Mr. *Justice Staples* in convicting and committing, as *rogues* and *vagabonds*, the actors of Wellclose-square Theatre brought before him, has exactly pursued the special authority vested in him by Statutes the 10th and 17th Geo. II. he has acted legally and consistently with his duty, as prescribed by the King's commission, and his official oath.

It does not appear, in the execution of the law, that he has acted *rashly*, for he had before him, by your own statements, not only the laws, but the opinion of three eminent counsel to support his judgment, that *Burlettas* and *Pantomimes* were prohibited. He did not act *par-*

tially or oppressively, for though he had authority to commit the offenders for *six* months, he committed them only for *fourteen* days.

Now let us see how the other justices acted: They acted either *ignorantly* or *corruptly*; if in their answer to the charges in the information against them they will swear they acted to the *best of their knowlege*, the confession of their *ignorance* may have effect in extenuation of punishment, that is, if the Court of King's Bench act from the general rule in respect to offending Justices: but should the Court consider this a new case, should the judges say, as every man who reads the Statute must say, "*the words are clear, and cannot be misunderstood,*" I fear swearing to *ignorance* will not render the justices much service. Now what are the words? They are these; "The offender shall be committed to any house of correction, &c. or to the common gaol of such county, there to be kept to hard labour for any time not exceeding six months, *there to REMAIN WITHOUT BAIL OR MAINPRIZE.* So that the

committal of Palmer and the others as *rogues* and *vagabonds*, was a committal in *execution*; and who ever heard of a man charged in *execution* having been *bailed*?

To suppose such a convictionailable, would be the height of absurdity. In all cases where a statute punishes, by inflicting a pecuniary penalty, to be levied by distress on the offender's goods, execution is the immediate consequence, and no bail can be taken for the payment of the penalty, though upon an appeal, if the penalty was lodged with the Justice, he no doubt would hold it till the sessions determined: now as no bail can be taken for the payment of the penalty, so, of course, if it be not paid, no bail can be taken for the future appearance of the person convicted, but he must be committed in execution.

But perhaps the Justices will adopt the excuse you have put into their mouths.

“ This is no new case; *people* convicted before a Justice of that liberty (the Tower Hamlets) under the 7th of Geo. 2. have been bailed on their appealing
against

against the conviction, since that law had operation. They were not discharged from the conviction, but bailed on the appeal."

But this mode of acting, though perhaps justifiable to the consciences of those Magistrates, will prove a weak plea in the Court of King's-Bench, where they will be told, the duty of the Magistrate is to execute the laws entrusted to his care, as the legislature has prescribed, without enquiring into their *spirit* or *equity*, or forming *constructions* upon them. Penal Laws must be strictly followed, according to their *tenor*, and Justices who venture to exercise discretion on such laws, as they merit, so they will receive punishment.

The *vagrants* we are arguing on, are offenders against the 10th of Geo. 2. The 6th clause of which statute says, they shall *remain in goal* "without BAIL or MAINPRIZE. The 17th of Geo. 2. says the same.

The bailing Justices, perhaps will say, "Of this we were ignorant; of this our counsel were ignorant;" but this will be no excuse. "Justices of the Peace before

fore they bail a man under commitment, must, at their *peril*, inform themselves of the *cause* for which he was committed; for if he were in truth committed for a cause *not bailable by law*, it is no excuse that the Justices did not know he was committed for such a cause. 1. *New. Abr.* 228. *Poph.* 96. *Dalt. c.* 114. 2 *Hawk.* 90.

You will now ask, Cannot the party committed, if he thinks himself *aggrieved*, *appeal* to the next quarter sessions? Undoubtedly he can; but he cannot be *bailed* in the mean time, because the first committal is in execution. But on the hearing of the *appeal*, should the Justices at sessions judge him to have been aggrieved by the Justice who committed him, then, no doubt, if he be in custody they may discharge him, and he may have his remedy against such Justice in another place*. But the 17. of Geo. II. says, “Where any offender against this act shall be com-

* The convictions of Mr. Justice Staples quashed at the last sessions, were not quashed upon a hearing of the *merits*, but on an *error* in the *form* of the convictions; of course no *actions* on that account can be maintained against him.—Nor does it prove that the evidence against the defendants was insufficient to convict them as *rogues* and *vagabonds*.

mitted to the house of correction, till the next sessions, and the Justices at such sessions shall, on examination of the circumstances of the case, adjudge such person a *rogue* and *vagabond*; they may order such *rogue* or *vagabond* to be detained in the house of correction to hard labour for any further time not exceeding six months.

From the arguments with which I have attempted to refute the principal observations of your Dedication, I trust those who may honour this letter with a perusal will be convinced, that the granting of a license for the acting of plays, to the Theatre in Wellclose-square, would be productive of many evil consequences to the publick at large, and to the city of London in particular. That the performances of *Burlettas* and *Pantomimes*, cannot be licensed by the Stat. 25 Geo. II. and of course that the performers are liable to the pains and penalties, enacted by Stat. the 10th of Geo. II. and Stat. 17 of the same King, commonly called the Vagrant Act.

F I N I S.

